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MEMO ENDORSED.

August 11, 2023

BY ECF

Hon. Ona T. Wang
500 Pearl Street
New York, New York 10007

Re: *SS&C Technologies Holdings, Inc. and Advent Software Inc. v. Arcesium LLC, No. 1:22-cv-02009-TMR-OTW – Letter Motion to Seal and Lodge Evidence in Traditional Manner*

Dear Judge Wang:

Plaintiffs/Counterclaim-Defendants SS&C Technologies Holdings, Inc. and Advent Software, Inc. (collectively, “SS&C”) and Defendant/Counterclaim-Plaintiff Arcesium LLC (collectively, the “Parties”), jointly and respectfully submit this request to redact certain portions of a letter SS&C is filing seeking leave to file a motion for the imposition of sanctions on Arcesium (the “Letter”), and to file certain supporting exhibits thereto under seal. One of the exhibits that SS&C seeks leave to file under seal is a video compilation of testimony from a recent deposition.

While a presumption of public access applies to judicial documents, *e.g.*, documents relevant to the performance of the judicial function and useful in the judicial process, the weight of the presumption is “governed by the role of the material at issue” and the resulting value of such information to the public. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006). Courts must also balance against the weight of the presumption of any countervailing factors such as “the privacy interests of those resisting disclosure,” *id.* at 120, including “the degree to which the subject matter is traditionally considered private rather than public” and the “nature and degree of injury” resulting from disclosure. *United States v. Amodeo*, 71 F.3d 1044, 1051 (2d Cir. 1995).

The Letter and supporting exhibits contain various references to non-public components of Arcesium’s software as well as to testimony that Arcesium has designated “highly confidential—outside counsel and experts’ eyes only.” This type of information is regularly deemed protected because disclosure “might harm a litigant’s competitive standing.” *In re Parmalat Sec. Litig.*, 258 F.R.D. 236, 244 (S.D.N.Y. 2009) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)); *Dodona I, LLC v. Goldman, Sachs & Co.*, 119 F. Supp. 3d 152, 155 (S.D.N.Y. 2015). This Court has granted similar sealing requests. *E.g.*, ECF No. 189. As to the video, SS&C seeks leave to lodge it with the Court under seal in the traditional manner consistent with the Rule 5.2 of the Court’s ECF Rules and Filing Instructions.

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Accordingly, the Parties respectfully submit this request to redact certain portions of the Letter, to file the unredacted version of the Letter under seal, and to file exhibits to the Letter under seal and in the traditional manner as applicable.

Respectfully submitted,

/s/ Stephen Fishbein

Stephen Fishbein

cc: Counsel of record for Arcesium (via ECF)

Application **GRANTED**.

SO ORDERED.



Ona T. Wang 8/16/23
U.S.M.J.